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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,588	12/12/2001	Toshihiko Muramatsu	2552-000006	1419

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EXAMINER	
PHUONG, DAI	

ART UNIT	PAPER NUMBER
2685	

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/021,588	MURAMATSU, TOSHIHIKO	
	Examiner	Art Unit	
	Dai A Phuong	2685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 December 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *9-12,15 and 18-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-12, 15, 18-23 and 25-26* is/are rejected.

7)☒ Claim(s) *24* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Applicant's amendment filed 9/14/04 canceling claims 1-8, 13-14, and 16-17 and adding claims 19-26 is noted. The amendment eliminates the presence of two groups of patentably distinct inventions as previously noted to applicant (see the attached Interview Summary). Therefore, the telephonic Restriction requirement is withdrawn.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 18 and 26 are rejected under 35 U.S.C. 101 because they are drawn to "a computer program product", i.e. a computer program. Since a computer program is merely a set of instructions capable of being executed by a computer, the computer program itself is not a process. A computer program, without the computer readable medium needed to realize the computer program's functionality, is nonstatutory functional descriptive material. The examiner suggests changing the preamble to "A computer readable medium having a computer program including instructions . . . ". See MPEP 2106.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 18, 22 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 18, line 3 (and dependent claim 26), the term "capable of" renders the claim indefinite (not positive) as to whether the portable communication terminal actually has a function of "detecting".

Regarding claim 22, line 2, the term "capable of" renders the claim indefinite (not positive) as to whether the portable communication terminal actually has a function of "detecting".

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 9-11, 15 and 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beaton et al. (U.S. Patent. 6,442,263) in view of Welch (U.S. 6,177,905).

Regarding claim 9, Beaton et al. disclose a portable communication terminal capable of detecting a position of the portable communication terminal, the portable communication terminal comprising:

a input unit 450 (col. 6, lines 1-8) which inputs first data for specifying a specific individual and second data for specifying a portable communication terminal owned by the specific individual (col. 6, lines 50-67) in correspondence with icon data (col. 7, lines 26-44).

a storage unit 440 (col. 5, lines 61-67) which stores the inputted first and second data and positional information of the portable communication terminal owned by the specific individual in (col. 6, lines 50-67) correspondence with the icon data (col. 7, lines 26-44).

a display 470 (col. 6, lines 14-18)

a controller 430 (col. 5, lines 53-59) which accesses the portable communication terminal corresponding to the icon data, downloads the positional information of the portable communication terminal corresponding to the icon data, automatically updates the positional information of the portable communication terminal corresponding to the icon data which is stored in the storage unit, and displays an icon based on the icon data so as to be superposed on a map displayed on the display (col. 6, lines 50-67, col. 7, lines 1-65, and col.8, lines 20-25).

But, Beaton et al. do not explicitly show a portable communication terminal capable of detecting a position of the portable communication terminal by using a Global Positioning System. However, Welch discloses a portable communication terminal capable of detecting a position of the portable communication terminal by using a Global Positioning System (col. 2, lines 15-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mobile device of Beaton et al. by specifically using global positioning system, as taught by Welch, in order

to locate the mobile user. The purpose of this is to provide a positioning accurately in determining the location of a mobile unit.

Regarding claim 10, Beaton et al. and Welch disclose all the limitations of claim 9. Further, Beaton et al. disclose the portable communication terminal is a portable telephone apparatus (col. 5, lines 14-22), the second data is a telephone number (col. 6, lines 50-67), and when the icon displayed on the display is selected, the controller reads out the telephone number corresponding to the selected icon data from the storage unit and executes a telephone calling process operation based on the read telephone number (col. 9, lines 14-35).

Regarding claim 11, Beaton et al. and Welch disclose all the limitations of claim 9. However, Beaton et al. discloses the map displayed on the display is provided based on map information downloaded through a based station according to the downloaded positional information of the portable communication terminal (col. 8, lines 20-35).

Regarding claim 15, Beaton et al. and Welch disclose all the limitations of claim 9. However, Beaton et al. disclose a method of controlling a portable communication terminal capable of detecting a position of the portable communication terminal, the method comprising the steps of:

inputting (col. 6, lines 1-8) first data for specifying a specific individual and second data for specifying a portable communication terminal owned by the specific individual (col. 6, lines 50-67) in correspondence with icon data (col. 7, lines 26-44).

storing 440 (col. 5, lines 61-67) the inputted first and second data and positional information of the portable communication terminal owned by the specific individual (col. 6, lines 50-67) in correspondence with the icon data (col. 7, lines 26-44).

accessing 430 (col. 5, lines 53-59) the portable communication terminal corresponding to the icon data.

downloading the positional information of the portable communication terminal corresponding to the icon data (col. 6, lines 50-67, col. 7, lines 1-65, and col.8, lines 20-25).

automatically updating the positional information of the portable communication terminal corresponding to the stored icon data (col. 6, lines 50-67, col. 7, lines 1-65, and col.8, lines 20-25).

displaying an icon based on the icon data so as to be superposed on a map displayed on a display (col. 6, lines 50-67, col. 7, lines 1-65, and col.8, lines 20-25).

But, Beaton et al. do not particularly teach a method of controlling a portable communication terminal capable of detecting a position of the portable communication terminal by using a Global Positioning System. However, Welch discloses a portable communication terminal capable of detecting a position of the portable communication terminal by using a Global Positioning System (col. 2, lines 15-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mobile device of Beaton et al. by specifically using global positioning system, as taught by Welch, in order to locate the mobile user. The purpose of this is to provide a positioning accurately in determining the location of a mobile unit.

Regarding claim 18, Beaton et al. and Welch disclose all the limitations of claim 9. However, Beaton et al. teach a computer program product including instructions, wherein the instruction, when executed by a computer provided in a portable communication terminal capable of detecting a position of the portable communication terminal, cause the portable communication terminal to perform the steps of:

inputting (col. 6, lines 1-8) first data for specifying a specific individual and second data for specifying a portable communication terminal owned by the specific individual (col. 6, lines 50-67) in correspondence with icon data (col. 7, lines 26-44).

storing 440 (col. 5, lines 61-67) the inputted first and second data and positional information of the portable communication terminal owned by the specific individual (col. 6, lines 50-67) in correspondence with the icon data (col. 7, lines 26-44).

accessing 430 (col. 5, lines 53-59) the portable communication terminal corresponding to the icon data.

downloading the positional information of the portable communication terminal corresponding to the icon data (col. 6, lines 50-67, col. 7, lines 1-65, and col.8, lines 20-25)..

automatically updating the positional information of the portable communication terminal corresponding to the stored icon data (col. 6, lines 50-67, col. 7, lines 1-65, and col.8, lines 20-25).

displaying an icon based on the icon data so as to be superposed on a map displayed on a display (col. 6, lines 50-67, col. 7, lines 1-65, and col.8, lines 20-25).

But, Beaton et al. do not particularly teach a portable communication terminal capable of detecting a position of the portable communication terminal by using a Global Positioning System. However, Welch discloses a portable communication terminal capable of detecting a position of the portable communication terminal by using a Global Positioning System (col. 2, lines 15-17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mobile device of Beaton et al. by specifically using global positioning system, as taught by Welch, in order to locate the mobile user. The purpose of this is to provide a positioning accurately in determining the location of a mobile unit.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beaton et al. (U.S. Patent. 6,442,263) in view of Welch (U.S. 6,177,905) and further in view of LeBlanc et al. (U.S. 5,508,707).

Regarding claim 12, Beaton et al. and Welch disclose all the limitations of claim 9 as noted above. But, Beaton et al. do not teach an azimuth measuring unit for measuring

an azimuth of the specific individual, wherein an inclination angle of the icon character on the map is controlled based on the measured azimuth.

However, LeBlanc et al. teach an azimuth measuring unit for measuring an azimuth of the specific individual, wherein an inclination angle of the icon character on the map is controlled based on the measured azimuth (col. 12, lines 22-40 and col. 23, lines 46-56). Since Beaton et al., Welch and LeBlanc et al. are related to the wireless telephone communication; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Beaton et al. and Welch by specifically having an azimuth measuring unit for measuring an azimuth of the specific individual, wherein an inclination angle of the icon character on the map is controlled based on the measured azimuth as taught by LeBlanc et al., for the purpose of providing a positioning accurately in determining the location of a mobile unit.

10. Claims 19-23 and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beaton et al. (U.S 6,442,263) in view of Welch (U.S. Patent. 6,177,905) and further in view of Le-Faucheur et al. (U.S. Application Pub. 2002/0019250).

Regarding claim 19, Beaton et al. and Welch disclose all the limitations of claim 9. Moreover, Welch discloses a detector which detects whether or not the position of the portable communication terminal corresponding to icon data is located within a predetermined range previously set by receiving the positional information indicating a

position of the other portable communication terminal corresponding to the icon data (col. 1, lines 25-65 and col. 3, lines 20-25).

But, Beaton et al. and Welch does not teach a reproducing unit which reads out the musical data stored in the storage unit and reproduces music based on the read musical data when the detector detects that the other portable communication terminal corresponding to the icon data is located within the predetermined range. However, Le-Faucheur et al. teach a storage unit which stores at least one musical data and a reproducing unit which reads out the musical data stored in the storage unit (fig. 2, blocks 202 and 209 and [0018]) and reproduces music based on the read musical data, when a coming call is detected [0006]. Since, Beaton et al. ,Welch and Le-Faucheur et al. are related to the portable telephone; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mobile phone of Welch and Beaton et al. by specifically having a storage unit which stores at least one musical data and a reproducing unit which reads out the musical data stored in the storage unit and reproduces music based on the read musical data when the detector detects that the other portable communication terminal is located within the predetermined range as taught by Le-Faucheur et al. for purpose of distinguishing the audio signal for an incoming call on an individual communication device from that of other communication devices that may be in the same vicinity.

Regarding claim 20, Beaton et al., Welch and Le-Faucheur disclose all the limitations of claim 19. Further, Beaton et al disclose the icons registered in the register

unit are different each other for every corresponding other portable communication terminal (Fig. 6, col. 7, lines 26-44).

Regarding claim 21, Beaton et al., Welch and Le-Faucheur disclose all the limitations of claim 19. However, Beaton et al disclose the portable communication terminal is a portable telephone apparatus (col. 5, 14-22), and the second data, input by unit, for specifying the portable telephone apparatus is a telephone number of the portable telephone apparatus (col. 6, lines 50-67).

Regarding claim 22, Beaton et al., Welch and Le-Faucheur disclose all the limitations of claim 19. Moreover, in the obvious combination as state above Le-Faucheur et al. disclose the producing unit is capable of reproducing a plurality of the musical data which are different each other for every corresponding other portable communication terminal ([0018]-[0021]).

Regarding claim 23, Beaton et al., Welch and Le-Faucheur disclose all the limitations of claim 19. However, in the obvious combination as state above Welch, in the GPS system, discloses the predetermined range is set as a distance from a predetermined target position (col. 2, lines 49-65).

Regarding claim 25, Beaton et al. and Welch disclose all the limitations of claim 15. However, Welch discloses a detector which detects whether or not the position of the

portable communication terminal corresponding to icon data is located within a predetermined range previously set by receiving the positional information indicating a position of the other portable communication terminal corresponding to the icon data (col. 1, lines 25-65 and col. 3, lines 20-25).

But, Beaton et al. and Welch does not teach a reading out and reproduces music based on the read musical data when the other portable communication terminal corresponding to the icon data is located within the predetermined range. However, Le-Faucheur et al. teach a storage unit which stores at least one musical data and a reproducing unit which reads out the musical data stored in the storage unit (fig. 2, blocks 202 and 209 and [0018]) and reproduces music based on the read musical data, when a coming call is detected [0006]. Since, Beaton et al., Welch and Le-Faucheur et al. are related to the portable telephone; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mobile phone of Beaton et al. and Welch by specifically having a storage unit which stores at least one musical data and a reproducing unit which reads out the musical data stored in the storage unit and reproduces music based on the read musical data when the detector detects that the other portable communication terminal is located within the predetermined range as taught by Le-Faucheur et al. for purpose of distinguishing the audio signal for an incoming call on an individual communication device from that of other communication devices that may be in the same vicinity.

Regarding claim 26, Beaton et al. and Welch disclose all the limitations of claim 18. However, Welch discloses the computer program product including instructions

which causing the portable communication terminal to further perform the step of: detecting whether of not the portable communication terminal corresponding to the icon data is located within a predetermined range previously set based on the received positional information (col. 2, lines 22-65 and col. 3, lines 21-28).

But, Beaton et al. and Welch does not teach a reading out the musical data and reproducing music based on the read musical data. However, Le-Faucheur et al. teach storing at least one musical data and reading out the musical data and reproducing music based on the read musical data (fig. 2, blocks 202 and 209 and [0018], [0021]). Since, Beaton et al., Welch and Le-Faucheur et al. are related to the portable telephone; therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Beaton et al. and Welch by specifically having storing at least one musical data and reading out the musical data and reproducing music based on the read musical data as taught by Le-Faucheur et al. for purpose of distinguishing the audio signal for an incoming call on an individual communication device from that of other communication devices that may be in the same vicinity.

Allowable Subject Matter

11. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reason for the indication of allowance: the prior art made of record and considered pertinent to the applicant's disclosure does not disclose nor fairly suggest the method of:

The controller acquires positional information indicative of a present position of the portable telephone apparatus as a communication counter station, updates the present positional information of the positional information table based upon the acquired positional information, and calculates a first distance between the present position of the communication counter station and a target position from the acquired present positional information, the target position data, and the distance/ displacement angle data based upon the arc distance with respect to the longitude displacement angle and the arc distance with respect to the latitude displacement angle at latitude in the vicinity of the target position, wherein the controller compares the first distance with a second distance indicated by the target distance data, and drives the musical piece reproducing unit when the calculated first distance is shorter than, second distance or equal to the second distance

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suzuki (U.S. Patent 6,680,675) discloses a method detecting telephone location.

Chinoy et al. (U.S. Patent 6,771,969) disclose a mobile phone.

Hiltunen et al. (U.S. Patent 6,754,484) disclose a system location.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dai Phuong whose telephone number is 703-605-4373. The examiner can normally be reached on 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Urban F Edward can be reached on 703-305-4385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Dai Phuong
AU: 2685
Date : 08/23/04

W. R. YOUNG
PRIMARY EXAMINER